

§ 1.52

37 CFR Ch. I (7–1–15 Edition)

under a contract with an agency of the U.S. Government);

(2) A specification as prescribed by 35 U.S.C. 112(a), see § 1.71;

(3) Drawings, when necessary, see §§ 1.81 to 1.85; and

(4) The prescribed filing fee and application size fee, see § 1.16.

(d) Applicants are encouraged to file an information disclosure statement in nonprovisional applications. See § 1.97 and § 1.98. No information disclosure statement may be filed in a provisional application.

[62 FR 53185, Oct. 10, 1997, as amended at 65 FR 54664, Sept. 8, 2000; 68 FR 14336, Mar. 25, 2003; 70 FR 3889, Jan. 27, 2005; 77 FR 46624, Aug. 6, 2012; 77 FR 48816, Aug. 14, 2012; 78 FR 62396, Oct. 21, 2013]

§ 1.52 Language, paper, writing, margins, compact disc specifications.

(a) *Papers that are to become a part of the permanent United States Patent and Trademark Office records in the file of a patent application, or a reexamination or supplemental examination proceeding.* (1) All papers, other than drawings, that are submitted on paper or by facsimile transmission, and are to become a part of the permanent United States Patent and Trademark Office records in the file of a patent application or reexamination or supplemental examination proceeding, must be on sheets of paper that are the same size, not permanently bound together, and:

(i) Flexible, strong, smooth, non-shiny, durable, and white;

(ii) Either 21.0 cm by 29.7 cm (DIN size A4) or 21.6 cm by 27.9 cm (8½ by 11 inches), with each sheet including a top margin of at least 2.0 cm (¾ inch), a left side margin of at least 2.5 cm (1 inch), a right side margin of at least 2.0 cm (¾ inch), and a bottom margin of at least 2.0 cm (¾ inch);

(iii) Written on only one side in portrait orientation;

(iv) Plainly and legibly written either by a typewriter or machine printer in permanent dark ink or its equivalent; and

(v) Presented in a form having sufficient clarity and contrast between the paper and the writing thereon to permit the direct reproduction of readily legible copies in any number by use of photographic, electrostatic, photo-off-

set, and microfilming processes and electronic capture by use of digital imaging and optical character recognition.

(2) All papers that are submitted on paper or by facsimile transmission and are to become a part of the permanent records of the United States Patent and Trademark Office should have no holes in the sheets as submitted.

(3) The provisions of this paragraph and paragraph (b) of this section do not apply to the pre-printed information on paper forms provided by the Office, or to the copy of the patent submitted on paper in double column format as the specification in a reissue application or request for reexamination.

(4) See § 1.58 for chemical and mathematical formulae and tables, and § 1.84 for drawings.

(5) Papers that are submitted electronically to the Office must be formatted and transmitted in compliance with the Office's electronic filing system requirements.

(b) *The application (specification, including the claims, drawings, and the inventor's oath or declaration) or reexamination or supplemental examination proceeding, any amendments to the application or reexamination proceeding, or any corrections to the application, or reexamination or supplemental examination proceeding.* (1) The application or proceeding and any amendments or corrections to the application (including any translation submitted pursuant to paragraph (d) of this section) or proceeding, except as provided for in § 1.69 and paragraph (d) of this section, must:

(i) Comply with the requirements of paragraph (a) of this section; and

(ii) Be in the English language or be accompanied by a translation of the application and a translation of any corrections or amendments into the English language together with a statement that the translation is accurate.

(2) The specification (including the abstract and claims) for other than reissue applications and reexamination or supplemental examination proceedings, and any amendments for applications (including reissue applications) and reexamination proceedings to the specification, except as provided for in §§ 1.821 through 1.825, must have:

(i) Lines that are 1½ or double spaced;

(ii) Text written in a nonscript type font (*e.g.*, Arial, Times Roman, or Courier, preferably a font size of 12) lettering style having capital letters which should be at least 0.3175 cm. (0.125 inch) high, but may be no smaller than 0.21 cm. (0.08 inch) high (*e.g.*, a font size of 6); and

(iii) Only a single column of text.

(3) The claim or claims must commence on a separate physical sheet or electronic page (§1.75(h)).

(4) The abstract must commence on a separate physical sheet or electronic page or be submitted as the first page of the patent in a reissue application or reexamination or supplemental examination proceeding (§1.72(b)).

(5) Other than in a reissue application or a reexamination or supplemental examination proceeding, the pages of the specification including claims and abstract must be numbered consecutively, starting with 1, the numbers being centrally located above or preferably, below, the text.

(6) Other than in a reissue application or reexamination or supplemental examination proceeding, the paragraphs of the specification, other than in the claims or abstract, may be numbered at the time the application is filed, and should be individually and consecutively numbered using Arabic numerals, so as to unambiguously identify each paragraph. The number should consist of at least four numerals enclosed in square brackets, including leading zeros (*e.g.*, [0001]). The numbers and enclosing brackets should appear to the right of the left margin as the first item in each paragraph, before the first word of the paragraph, and should be highlighted in bold. A gap, equivalent to approximately four spaces, should follow the number. Nontext elements (*e.g.*, tables, mathematical or chemical formulae, chemical structures, and sequence data) are considered part of the numbered paragraph around or above the elements, and should not be independently numbered. If a nontext element extends to the left margin, it should not be numbered as a separate and independent paragraph. A list is also treated as part of the paragraph around or above the list, and

should not be independently numbered. Paragraph or section headers (titles), whether abutting the left margin or centered on the page, are not considered paragraphs and should not be numbered.

(c) Interlineation, erasure, cancellation, or other alteration of the application papers may be made before or after the signing of the inventor's oath or declaration referring to those application papers, provided that the statements in the inventor's oath or declaration pursuant to §1.63 remain applicable to those application papers. A substitute specification (§1.125) may be required if the application papers do not comply with paragraphs (a) and (b) of this section.

(d) A nonprovisional or provisional application under 35 U.S.C. 111 may be in a language other than English.

(1) *Nonprovisional application.* If a nonprovisional application under 35 U.S.C. 111(a) is filed in a language other than English, an English language translation of the non-English language application, a statement that the translation is accurate, and the processing fee set forth in §1.17(i) are required. If these items are not filed with the application, the applicant will be notified and given a period of time within which they must be filed in order to avoid abandonment.

(2) *Provisional application.* If a provisional application under 35 U.S.C. 111(b) is filed in a language other than English, an English language translation of the non-English language provisional application will not be required in the provisional application. See §1.78(a) for the requirements for claiming the benefit of such provisional application in a nonprovisional application.

(e) *Electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application, or reexamination or supplemental examination proceeding.* (1) The following documents may be submitted to the Office on a compact disc in compliance with this paragraph:

(i) A computer program listing (see §1.96);

(ii) A "Sequence Listing" (submitted under §1.821(c)); or

(iii) Any individual table (see § 1.58) if the table is more than 50 pages in length, or if the total number of pages of all the tables in an application exceeds 100 pages in length, where a table page is a page printed on paper in conformance with paragraph (b) of this section and § 1.58(c).

(2) A compact disc as used in this part means a Compact Disc-Read Only Memory (CD-ROM) or a Compact Disc-Recordable (CD-R) in compliance with this paragraph. A CD-ROM is a “read-only” medium on which the data is pressed into the disc so that it cannot be changed or erased. A CD-R is a “write once” medium on which once the data is recorded, it is permanent and cannot be changed or erased.

(3)(i) Each compact disc must conform to the International Organization for Standardization (ISO) 9660 standard, and the contents of each compact disc must be in compliance with the American Standard Code for Information Interchange (ASCII).

(ii) Each compact disc must be enclosed in a hard compact disc case within an unsealed padded and protective mailing envelope and accompanied by a transmittal letter on paper in accordance with paragraph (a) of this section. The transmittal letter must list for each compact disc the machine format (*e.g.*, IBM-PC, Macintosh), the operating system compatibility (*e.g.*, MS-DOS, MS-Windows, Macintosh, Unix), a list of files contained on the compact disc including their names, sizes in bytes, and dates of creation, plus any other special information that is necessary to identify, maintain, and interpret (*e.g.*, tables in landscape orientation should be identified as landscape orientation or be identified when inquired about) the information on the compact disc. Compact discs submitted to the Office will not be returned to the applicant.

(4) Any compact disc must be submitted in duplicate unless it contains only the “Sequence Listing” in computer readable form required by § 1.821(e). The compact disc and duplicate copy must be labeled “Copy 1” and “Copy 2,” respectively. The transmittal letter which accompanies the compact disc must include a statement that the two compact discs are identical.

In the event that the two compact discs are not identical, the Office will use the compact disc labeled “Copy 1” for further processing. Any amendment to the information on a compact disc must be by way of a replacement compact disc in compliance with this paragraph containing the substitute information, and must be accompanied by a statement that the replacement compact disc contains no new matter. The compact disc and copy must be labeled “COPY 1 REPLACEMENT MM/DD/YYYY” (with the month, day and year of creation indicated), and “COPY 2 REPLACEMENT MM/DD/YYYY,” respectively.

(5) The specification must contain an incorporation-by-reference of the material on the compact disc in a separate paragraph (§ 1.77(b)(5)), identifying each compact disc by the names of the files contained on each of the compact discs, their date of creation and their sizes in bytes. The Office may require applicant to amend the specification to include in the paper portion any part of the specification previously submitted on compact disc.

(6) A compact disc must also be labeled with the following information:

- (i) The name of each inventor (if known);
- (ii) Title of the invention;
- (iii) The docket number, or application number if known, used by the person filing the application to identify the application;
- (iv) A creation date of the compact disc;
- (v) If multiple compact discs are submitted, the label shall indicate their order (*e.g.*, “1 of X”); and
- (vi) An indication that the disc is “Copy 1” or “Copy 2” of the submission. See paragraph (b)(4) of this section.

(7) If a file is unreadable on both copies of the disc, the unreadable file will be treated as not having been submitted. A file is unreadable if, for example, it is of a format that does not comply with the requirements of paragraph (e)(3) of this section, it is corrupted by a computer virus, or it is written onto a defective compact disc.

(f)(1) Any sequence listing in an electronic medium in compliance with §§ 1.52(e) and 1.821(c) or (e), and any

computer program listing filed in an electronic medium in compliance with §§ 1.52(e) and 1.96, will be excluded when determining the application size fee required by § 1.16(s) or § 1.492(j). For purposes of determining the application size fee required by § 1.16(s) or § 1.492(j), for an application the specification and drawings of which, excluding any sequence listing in compliance with § 1.821(c) or (e), and any computer program listing filed in an electronic medium in compliance with §§ 1.52(e) and 1.96, are submitted in whole or in part on an electronic medium other than the Office electronic filing system, each three kilobytes of content submitted on an electronic medium shall be counted as a sheet of paper.

(2) Except as otherwise provided in this paragraph, the paper size equivalent of the specification and drawings of an application submitted via the Office electronic filing system will be considered to be seventy-five percent of the number of sheets of paper present in the specification and drawings of the application when entered into the Office file wrapper after being rendered by the Office electronic filing system for purposes of determining the application size fee required by § 1.16(s). Any sequence listing in compliance with § 1.821(c) or (e), and any computer program listing in compliance with § 1.96, submitted via the Office electronic filing system will be excluded when determining the application size fee required by § 1.16(s) if the listing is submitted in ASCII text as part of an associated file.

(Pub. L. 94-131, 89 Stat. 685; 35 U.S.C. 6, Pub. L. 97-247; 15 U.S.C. 1113, 1123)

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1.52, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 1.53 Application number, filing date, and completion of application.

(a) *Application number.* Any papers received in the Patent and Trademark Office which purport to be an application for a patent will be assigned an application number for identification purposes.

(b) *Application filing requirements—Nonprovisional application.* The filing

date of an application for patent filed under this section, other than an application for a design patent or a provisional application under paragraph (c) of this section, is the date on which a specification, with or without claims, is received in the Office. The filing date of an application for a design patent filed under this section, except for a continued prosecution application under paragraph (d) of this section, is the date on which the specification as prescribed by 35 U.S.C. 112, including at least one claim, and any required drawings are received in the Office. No new matter may be introduced into an application after its filing date. A continuing application, which may be a continuation, divisional, or continuation-in-part application, may be filed under the conditions specified in 35 U.S.C. 120, 121, 365(c), or 386(c) and § 1.78.

(1) A continuation or divisional application that names as inventors the same or fewer than all of the inventors named in the prior application may be filed under this paragraph or paragraph (d) of this section.

(2) A continuation-in-part application (which may disclose and claim subject matter not disclosed in the prior application) or a continuation or divisional application naming an inventor not named in the prior application must be filed under this paragraph.

(c) *Application filing requirements—Provisional application.* The filing date of a provisional application is the date on which a specification, with or without claims, is received in the Office. No amendment, other than to make the provisional application comply with the patent statute and all applicable regulations, may be made to the provisional application after the filing date of the provisional application.

(1) A provisional application must also include the cover sheet required by § 1.51(c)(1), which may be an application data sheet (§ 1.76), or a cover letter identifying the application as a provisional application. Otherwise, the application will be treated as an application filed under paragraph (b) of this section.

(2) An application for patent filed under paragraph (b) of this section may